

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FRANK RIVERA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 08-1023
	)	Judge McVerry
PENNSYLVANIA DEPARTMENT OF	)	Magistrate Judge Bissoon
CORRECTIONS, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

This prisoner civil rights suit was commenced on July 21, 2008, with the filing of a petition to proceed *in forma pauperis*, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. The matter was later referred to Magistrate Judge Cathy Bissoon.

The Magistrate Judge's Report and Recommendation dated June 3, 2009, recommends that Defendants' Motions to Dismiss (Docs. 30, 34 and 60) be granted, and that the claims against Defendants Jane Doe and John Doe be dismissed *sua sponte*. Plaintiff filed objections on June 24, 2009 (Doc. 88), but he had already filed an appeal to the United States Court of Appeals for the Third Circuit from the denial of preliminary injunctive relief (Doc. 85). That appeal has now been concluded, and this Court's order denying injunctive relief has been affirmed (Doc. 97).

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 21st day of October, 2009,

IT IS HEREBY ORDERED that Defendants' Motions to Dismiss (Docs 30, 34 and 60) are GRANTED, and the claims against Defendants Jane Doe and John Doe are dismissed *sua sponte*. The Magistrate Judge's Report and Recommendation (Doc. 84) is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's "Motion for Leave to Amend Complaint or in the alternative Motion to Equitabl[y] Toll the Statute of Limitation Under the Continuing Violation Doctrine" (Doc. 94) is DENIED. The proposed amendments do not cure the defects in Plaintiff's initial Complaint, but instead seek to add several claims arising from incidents that occurred after the initial Complaint was filed. The Court has discretion to permit Parties to supplement their pleadings pursuant to F.R.C.P. 15(d) "setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented." Here, the Court sees no reason to permit Plaintiff to begin an entirely new litigation of claims unrelated to the claims in the initial Complaint, particularly since all of the claims in the initial Complaint have been dismissed. Plaintiff may, of course, pursue his new claims in a new Civil Action.

IT IS FURTHER ORDERED that Plaintiff's Motion to Compel Prison officials to Assist Plaintiff In Preparing an Filing a Meaningful Legal Document by Providing Photocopying Access to and Indigent Class (Doc. 95) is DENIED AS MOOT since this case is being dismissed in its entirety.

The Clerk is directed to mark this case CLOSED.

s/Terrence F. McVerry  
Terrence F. McVerry  
U.S. District Court Judge

CC:  
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